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MOVQ

Guide to the Model Questionnaires
on **outgoing** International Value
Transfers

Federation of the Dutch Pension Funds

On behalf of approximately 156 Dutch pension funds, the Federation of the Dutch Pension Funds represents the interests of:

- 6,2 million members
- 3,8 million pensioners
- 9,1 million deferred members.

The majority of the working population in the Netherlands is a member of a collective pension fund.

The pension funds affiliated with the Federation of the Dutch Pension Funds collectively manage approximately 1.400 billion in funds.

(Figures as of December 31, 2022)

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Dutch Association of Insurers

The Dutch Association of Insurers is the trade association of non-life and life insurers. We represent more than 95 percent of all insurers in the Netherlands. Reinsurers, insurtechs, premium pension institutions and companies involved in bank savings are also affiliated with us.

About the Dutch insurance sector

- 39.000 employees
- 180 billion euros in investments in the Netherlands
- 400 billion of assets under management
- 85 billion in premiums received per year

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Federation of the Dutch Pension Funds
Dutch Association of Insurers
The Hague, January 2024

Guide to the Model Questionnaires on outgoing International Value Transfers

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A joint initiative of:

Federation of the Dutch Pension Funds
(*Pensioenfederatie*)
Dutch Association of Insurers
(*Verbond van Verzekeraars*)

This document has been updated in 2022.

This document has been updated in January 2024 following two judgments of the Court of Justice of the European Union on 16 November 2023 (see footnote 3).

General

1. Introduction

Certain provisions concerning international value transfers (also known as international transfer payments) for individual persons were incorporated in the Dutch Pensions Act (*Pensioenwet*). These provisions impose obligations on pension administrators (pension funds). Thus, a pension administrator is obliged to co-operate in certain situations and must decide itself whether the statutory conditions are met. In other situations the pension administrator has a discretionary power to decide whether or not to co-operate; in these cases too, certain statutory conditions apply. The pension administrator has a personal responsibility with regard to international value transfers.

As a service, the pension associations together with their members have developed the Guide and Questionnaires to help Dutch pension administrators deal with these obligations and responsibilities. The aim of the Guide and the Questionnaires is to facilitate the practicalities of international value transfers and simplify the appraising of such transactions on legal and other aspects. It should, however, be noted that a completed (model) questionnaire does not discharge the Dutch pension administrator of the responsibility for checking whether the responses truly correspond with the submitted documentation and pension scheme regulations.

This Guide refers to international individual value transfers of work related pensions in the second pillar. This Guide doesn't refer to value transfers of third pillar individual annuities.

2. Model Questionnaires

The Working Group has developed three model questionnaires which can be used by any Dutch pension administrator to process an outgoing international individual value transfer request. These model questionnaires enable the Dutch pension administrator to assess uniformly and easily whether an international individual value transfer request can or cannot be honoured.

In these model questionnaires the statutory requirements have been re-expressed as questions that have to be answered by the foreign pension-paying institution and the present or former pension scheme participant requesting an international value transfer.

Each model questionnaire covers a specific transfer situation.

- The first questionnaire covers outgoing individual value transfers to the European Economic Area (EEA)¹ or Switzerland², or an insurer having its registered office outside the Netherlands;
- The second questionnaire covers outgoing individual value transfers to what are termed designated institutions;
- The third questionnaire covers outgoing individual value transfers outside the EEA or Switzerland.

The model questionnaires are to be used as follows. Whenever an international value transfer is requested, the Dutch pension administrator can select the appropriate questionnaire and send the English or Dutch version – possibly via the requester – to the foreign pension-paying institution.³ The model questionnaires can be downloaded from the website of the [Federation of the Dutch Pension Funds](#) and of the Dutch Association of Insurers.

Some of the questions specifically concern the present or former pension scheme participant submitting the request, and the foreign pension-paying institution must get the requester to answer them. When the questionnaire has been returned, the appraisal can be conducted. If all questions have been answered “**yes**” and the necessary documents have been submitted, the international value transfer process can be continued. In some cases this means that the Dutch pension

¹ The European Economic Area (EEA) comprises all European Union member countries plus Liechtenstein, Norway and Iceland.

² Based upon the ‘[Agreement concluded by the European Union with the Swiss Confederation: free movement of persons | EUR-Lex \(europa.eu\)](#)’

³ The Model Questionnaires have been translated into English

administrator can proceed with the value transfer (e.g. if the value transfer is within the EEA or to Switzerland). In other cases the consent of De Nederlandsche Bank (DNB) must be requested (in particular if the value transfer is outside the EEA or Switzerland) or if fiscal conditions have not been met yet.

3. Provisions of the Pensions Act

This section briefly summarises the relevant provisions of the Pensions Act (PW). International individual value transfers are governed by Articles 85 to 89 inclusive and by Articles 91 and 92 of the Pensions Act. The Act describes a large number of situations involving an international value transfer and defines the statutory requirements for each of these situations⁴. A distinction is drawn between incoming (Articles 91 and 92) and outgoing international value transfers (Article 85 to 89 including). Within each category a further distinction is then drawn between those value transfers where the Dutch pension administrator is obliged to co-operate, and those where it has a discretionary power to co-operate, depending primarily on the nature of the foreign pension-paying institution concerned, the current domestic or foreign legislation governing international transfers of pension entitlements and whether the institution is or is not established in an EEA-State, or in Switzerland. Pursuant the Dutch Pensions Act, the obligation to undertake an international value transfer is not effective if the opportunities for commuting the transfer value, after the value transfer, are wider in the foreign country than under the Pensions Act. Value transfers to the European Union, the European Central Bank or to foreign institutions designated by the Minister of Social Affairs and Employment (SZW) form a separate category.

Model questionnaires have been developed to cover those value transfer situations that most commonly occur in practice. Other situations hardly ever arise. The model questionnaires cover the following situations:

Article:	Description:
Art. 85 PW ⁵	Obligation to effect value transfer to a pension-paying institution in another Member State or to an insurer having its registered office outside the Netherlands, at the pension scheme participant's request
Art. 86 PW	Obligation to effect value transfer to one of the European Communities ⁶ or to a designated institution at the pension scheme participant's request
Art. 87 PW	Discretionary power to effect value transfer to some other foreign institution at the pension scheme participant's request

If the transferring pension administrator is obliged to effect an international value transfer under Articles 85 and 86 of the PW, no costs may be charged by the transferring pension institution to the

⁴ On 16 November 2023, the Court of Justice of the European Union has ruled against the Netherlands in two cases (C-360/22 and C-459/22). The cases were filed against the Netherlands by the European Commission. In short, the Netherlands may no longer impose the following conditions on outgoing international individual value transfers within the EEA or to Switzerland:

- that possibilities for commutation of the pension entitlements in the other country may not be wider than those under the Dutch Pensions Act and that failure to comply with this condition should entail tax consequences; and
- that the foreign pension provider receiving the transfer value has to sign an agreement with the Dutch Tax and Customs Administration in which the foreign pension provider accepts liability for the tax and adjustment interest owed by the entitled employee in respect of taxable facts relating to the transferred pension or that the employee provides security.

⁵ Pensioenwet.

⁶ Upon the entry into force of the Treaty of Lisbon in 2009, the pillar structure of the European Union no longer exists. The EC treaty has been withdrawn and therefore the 'European Community' no longer exists (Source: https://www.europa-nu.nl/id/vgb8kr3821yw/europese_gemeenschap_eg). Until now, Article 86 of the Pensions Act still refers to 'European Communities'. In this text we have replaced the term 'European Communities' with 'European Economic Area' as much as possible. Even where an explicit reference to art. 86 of the Pensions Act has been included.

pension scheme participant. If the transferring pension administrator has the discretionary power to effect an international value transfer under Article 87 of the PW, it may charge the costs of doing so, but those costs must not be deducted from the transfer value.

The present or former pension scheme participant's partner and or the former partner entitled to pension sharing in the event of divorce to must also agree to the value transfer.⁷ For this purpose, the partner must explicitly countersign the value transfer request.

4. Fiscal legislation

The basic rule in the Netherlands is that an individual value transfer is treated for tax purposes as the commutation of a pension, which constitutes grounds for levying wage tax on the transfer value (Article 19b(2) of the Wages and Salaries Tax Act [*Wet LB*] 1964).

Under Article 19b(6) of the Wages and Salaries Tax Act 1964, an international value transfer in the context of an acceptance of employment outside the Netherlands does not entail fiscal consequences (*i.e.* no tax is levied; this is an untaxed value transfer). However, certain conditions must then be satisfied, as specified in the Decree (*Besluit*) of October 9, 2015, No. DGB2015/7010M, Government Gazette (*Staatscourant*) 2015, No. 36798 (International aspects of pensions).^{8, 9}

The conditions imposed by this Decree have likewise been re-expressed as questions and incorporated in the model questionnaires. Consequently the model questionnaires may also be used to verify, for tax purposes, whether the conditions have been met. An important aspect of untaxed value transfers is that the Tax and Customs Administration (*Belastingdienst*) does impose upon the former pension scheme participant a protective assessment (*conserverende aanslag*) or exit levy. If it transpires, after the value transfer has been effected, that the stipulated fiscal conditions have not been fully satisfied, then the Tax and Customs Administration can recover the tax due by means of this assessment.

Dutch tax law enables a value transfer to be effected without a Dutch tax levy being imposed. In case of an individual value transfer to the European Union or the European Central Bank, the conditions as mentioned in annex V of the Decree have to be met (see also question 5 of the Model Questionnaire for Value Transfers to a designated international institution).

In any other situation, the Tax and Customs Administration (Dutch address: Belastingdienst Limburg, kantoor Buitenland, Postbus 2865, 6401 DJ Heerlen, The Netherlands) has to verify the content of the fiscal conditions and take a formal decision¹⁰.

If the Tax and Customs Administration does not give its consent, the transferring pension administrator cannot co-operate in an untaxed value transfer. Article 19b *Wet op de Loonbelasting (wages tax act)* will apply to the transfer value and the transfer value will classify as wages (from previous employment). Income tax will have to be withheld on the transfer value by the transferring (Dutch) pension administrator that has a withholding obligation. The pension administrator cannot refuse a request based on Article 85 and 86, but will inform the pension scheme participant (that is: warn and/or advise against the request for value transfer) of the fiscal consequences. A request based on Article 87 (value transfer to some other foreign institution) can be refused by the pension administrator.

⁷ If the partner and/or the former partner entitled to pension sharing in the event of divorce does not agree, only the retirement pension (excluding the shared pension in the event of divorce) may be transferred.

⁸ This Decree (in Dutch) can be found on <https://wetten.overheid.nl/BWBR0037121/2015-10-28>

⁹ In a letter to Parliament dated 22 December 2023, no.2023-0000274339, the Dutch Government has indicated that the Pensions Act and tax legislation and regulations will be amended following the rulings on 16 November 2023 by the Court of Justice of the European Union.

¹⁰ The letter to Parliament dated 22 December 2023 indicates that the judgments have direct effect from 16 November 2023 and will be respected by the Tax Authorities from that day.

5. Agreement with Tax Administration, the Ministry of SZW and DNB

The first version of this “Guide to the Model Questionnaires on International Value Transfers” has been discussed with the Tax and Customs Administration Limburg (Foreign Countries Office), the Ministry of Social Affairs and Employment and De Nederlandsche Bank. Both DNB (as supervisory agency for pension funds) and the Tax and Customs Administration have informed the pension fund associations that they welcome this standardisation initiative, because this uniform procedure by pension administrators will promote operational efficiency within the pensions sector and proper compliance with the statutory provisions. The Tax and Customs Administration had at that time confirmed that a Dutch tax pension administrator would be informed by the Tax and Customs Administration whenever it is relieved of fiscal liability under the Collection of State Taxes Act.

The fully updated version was re-aligned with the same parties in 2021.

6. General information

On completion and after signing the applicable ‘Model Questionnaire Value Transfer’ the questionnaire should be sent to the Dutch pension administrator for further assessment of the request for international value transfer.

Model Questionnaire for Value Transfers within the EEA or Switzerland

Explanatory note

Under Article 85 of the Pensions Act, the Dutch pension administrator is obliged to co-operate with a value transfer to a pension-paying institution in another Member State or an insurer with a registered office outside the Netherlands (value transfer within the EEA or Switzerland). This provision includes a number of statutory conditions which have been re-expressed as questions in the questionnaire below. If all questions are answered “Yes”, it can be assessed if the requirements imposed by Dutch legislation on an international value transfer within the EEA or Switzerland¹¹ are met.

It should be noted that the tax conditions for value transfer to a foreign (non-tax-designated) pension institution are included in the tax Decree of October 9, 2015 (DGB2015/7010M).

Questionnaire

Question:	Subject:	Yes:	No:
1	<p>Can your pension-paying institution be classified as either:</p> <ul style="list-style-type: none"> • a pension-paying institution in another (apart from the Netherlands) Member State of the European Economic Area (EEA) or Switzerland, • an insurer with registered office outside the Netherlands? <p>The Annex to this Model Questionnaire explains what is meant by such a pension-paying institution.</p>	<input type="checkbox"/>	<input type="checkbox"/>
2	<p>Is the purpose of the value transfer to enable the person requesting the international value transfer to acquire pension entitlements with your institution as the pension administrator of that person’s employer?</p>	<input type="checkbox"/>	<input type="checkbox"/>
3	<p>Will you (as the pension-paying institution) utilise the transfer value of the pension capital to acquire pension entitlements for your pension scheme participant?</p>	<input type="checkbox"/>	<input type="checkbox"/>
4	<p>Are you (as the pension-paying institution) the direct recipient of the pension capital’s transfer value from the Dutch pension administrator?</p>	<input type="checkbox"/>	<input type="checkbox"/>

¹¹ With Brexit, the United Kingdom will no longer be part of the EEA as of January 1, 2020. For value transfers to the UK, the Model Questionnaire for Value Transfer outside the EEA must therefore be used.

Question: Subject:

Yes: No:

5	<p>Is the (actuarial) value of the pension entitlements to be acquired with your pension-paying institution at least equal to the value, as calculated on the same principles, of the pension entitlements to be transferred by the Dutch pension administrator?</p> <p>If you have answered "yes", proof must be attached. Has this evidence been added? This proof shows the pension entitlements to be acquired in the new pension scheme.</p>	<input type="checkbox"/>	<input type="checkbox"/>
6	<p>Can you confirm that <u>no</u> costs will be charged to the pension scheme participant for the requested international value transfer?</p>	<input type="checkbox"/>	<input type="checkbox"/>
7	<p>Can you confirm that the Dutch transfer value will be used solely for retirement or partner pension payments as from the normal pension commencement date under your pension scheme?</p>	<input type="checkbox"/>	<input type="checkbox"/>
8	<p>Can you confirm that your pension scheme complies with the national legislation of your country?</p> <p>A copy of your institution's current pension scheme (preferably digital and in English) should be attached.</p>	<input type="checkbox"/>	<input type="checkbox"/>
9	<p>Can you demonstrate that the pension scheme in the "country of immigration" is in line with normal practice in that country <u>and</u> that the payments to be made from the transferred Dutch pension capital will be subject to a tax levy on income?</p> <p>For this purpose you can submit a written declaration by the tax authority of your country of residence/employment. Is this written statement attached?</p> <p><i>Note: The Dutch Tax and Customs Administration (Belastingdienst) will only consent to an international value transfer if the pension payments to be made in the pension scheme participant's country of residence are subject to taxation. The pension scheme must also comply with normal practice in the country of residence/employment. In most cases, this will be a pension scheme enjoying favourable tax treatment under the foreign taxation system. If you cannot submit a declaration by the foreign tax authority, then you should clearly demonstrate in some other way that the payments will be subject to taxation in due course, and that the pension scheme is in line with normal practice in that country.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>

Question: Subject:

Yes: No:

10	<p>Has the person requesting this international value transfer accepted “substantial” employment? Irrespective of other criteria, employment is “substantial” if it has been contracted for a period of at least 5 years.</p> <p>If the employment is “substantial”, evidence of this must be submitted in the form of the employment contract and proof of residence of the person concerned. Are both documents enclosed?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	<p>Can it be confirmed that the person requesting this international value transfer is <u>not claiming any tax deduction</u>, on account of the value transfer, on any taxable income in the Netherlands of himself or his partner?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12	<p><i>This question is only to be answered if a <u>partner's pension</u> is also entailed.</i></p> <p>Has the partner, i.e. the beneficiary of the partner's pension, countersigned the international value transfer request?</p> <p><i>Explanation: If a partner's pension forms part of the pension value to be transferred, the partner must also concur with the international value transfer request.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Full name and address of the receiving institution:

Signed (pension-paying institution):

Name of signatory:

Telephone number of signatory:

E-mail address of signatory:

Position of signatory:



Date:

Name of present or former pension scheme participant:

Signature of present or former pension scheme participant::

Name of partner (if any):

Signature of partner (if any):

Date:

If applicable:

Name former partner entitled to pension sharing in the event of divorce:

Signature former partner entitled to pension sharing in the event of divorce:

Date:

Annex to Model Questionnaire for Value Transfers within the EEA or Switzerland

Question 1 of the model questionnaire reads as follows:

1	<p>Can your pension-paying institution be classified as either:</p> <ul style="list-style-type: none"> • a pension-paying institution in another (apart from the Netherlands) Member State of the European Economic Area (EEA) or Switzerland, • an insurer with registered office outside the Netherlands? 	<input type="checkbox"/>	<input type="checkbox"/>
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A pension-paying institution in another Member State of the European Economic Area (EEA) or Switzerland is understood to mean:

- A fully funded institution, regardless of its legal form, that has its registered office in a Member State other than the Netherlands and has been constituted as an entity independent of any contributing enterprise or business sector, having as its aim the payment of employment-related pension benefits under an agreement concluded:
 - individually or collectively between one or more employers and one or more employees or their respective representatives; or
 - with self-employed persons
 and pursuing activities that are directly related thereto.

An insurer with registered office outside the Netherlands is understood to mean:

- an insurer who is qualified under Dutch legislation to conclude pension insurance arrangements within or into the Netherlands¹².

A Dutch pension administrator is understood to be:

- a corporate pension fund;
- an occupational pension fund;
- an industry-sector pension fund;
- a general pension fund
- a premium pension institution or
- an insurer with registered office in the Netherlands.

¹² Pensioenwet, art.23 lid 1 sub c.

Model Questionnaire for Value Transfers to a designated international institution

Explanatory note

Under Article 86 of the Pensions Act, the Dutch pension administrator is obliged to co-operate with an international value transfer to an (international) institution designated as such under the Pensions Act, or to a pension scheme of the European Union or the European Central Bank.

This provision includes a number of statutory conditions which have been re-expressed as questions in the questionnaire below. If all questions are answered “Yes”, then the requirements imposed by Dutch legislation on an international value transfer to a designated (international) institution will have been satisfied.

The Pensions Act Regulations (*Regeling Pensioenwet*) and Occupational Pension Scheme (Obligatory Membership) Act (*Wet verplichte beroepspensioenregeling*) lists the designated (international) institutions in question. These designated international institutions are also listed in Annex 1 to this questionnaire.

For the sake of completeness it should be noted that the fiscal conditions governing value transfers to a pension scheme of the European Union, the European Central Bank and a designated institution include certain further arrangements. The relevant conditions and further arrangements are given in the Decree¹³ of October 9, 2015.

Questions 1, 2, 3, 4 and 6 must be answered in the event of a transfer to the pension scheme of a designated (international) institution.

Questions 1, 2, 5 and 6 must be answered in the event of a transfer to (the pension scheme of) the EU or the ECB.

Questionnaire

Question: Subject:

Yes: No:

Question:	Subject:	Yes:	No:
1	Is the purpose of the value transfer to enable the person, requesting the international value transfer, to acquire pension entitlements with your international institution?	<input type="checkbox"/>	<input type="checkbox"/>
2	Is your international institution the direct recipient of the pension capital's transfer value from the Dutch pension administrator?	<input type="checkbox"/>	<input type="checkbox"/>

¹³ <https://wetten.overheid.nl/BWBR0037121/2015-10-28>

Question: Subject:

Yes: No:

	Question: Subject:	Yes:	No:
3	<p>Does it concern a value transfer to a (pension institution of the) EU or the ECB? Then proceed to question 4. You do not need to answer this question.</p> <p>In case of a value transfer to a Designated International Institution, please answer these questions:</p> <p>Has the person requesting this international value transfer accepted “substantial” employment? Irrespective of other criteria, employment is “substantial” if it has been contracted for a period of at least 5 years.</p> <p>If the employment is “substantial”, evidence of this must be submitted in the form of the employment contract and proof of residence of the person concerned. Are both documents enclosed?</p>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
4	<p>Does it concern a value transfer to a (pension institution of the) EU or the ECB? Please answer this question:</p> <p>As a (pension institution of the) EU or ECB, are you prepared to declare that you meet the following conditions in the event of a subsequent transfer of the capital received to a successive pension institution¹⁴:</p> <ol style="list-style-type: none"> 1. You include a clause with conditions in the transfer agreement to the successive pension provider. 2. The successive pension provider declares by signing the agreement or the clause that it meets the following conditions: <ol style="list-style-type: none"> a. The commencement date of these pension benefits is at the earliest when the (former) employee/participant reaches the age of 60 and at the latest when he or she reaches the age of 67. b. The scheme in which the capital is contributed provides options for partner's or orphan's pension. c. Any subsequent transfer to a successive pension institution will only take place if that pension provider declares that it will meet conditions a to c. 	<input type="checkbox"/>	<input type="checkbox"/>
5	<p>Can it be confirmed that the person requesting this international value transfer is <u>not claiming any tax deduction</u>, on account of the value transfer, on any taxable income in the Netherlands of himself or his partner?</p>	<input type="checkbox"/>	<input type="checkbox"/>

¹⁴ The conditions as described in Annex V of Decree DGB2012/7010M concerning international aspects of pensions https://wetten.overheid.nl/BWBR0037121/2015-10-28#Circulaire.divisie3_Circulaire.divisie3.3_Circulaire.divisie3.3.2; this will be adjusted in line with the judgment dated 16 November 2023 of the European Court of Justice.

Question: Subject:

Yes: No:

6	<p><i>This question is only to be answered if a <u>partner's pension</u> is also entailed.</i></p> <p>Has the partner, i.e. the beneficiary of the partner's pension, countersigned the international value transfer request?</p> <p><i>Explanation: If a partner's pension forms part of the pension value to be transferred, the partner must also concur with the international value transfer request.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
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Full name and address of the international organisation:

Signed (pension-paying institution):

Name of signatory:

Telephone number of signatory:

E-mail address of signatory:

Position of signatory:

Date:

Name of present or former pension scheme participant:

Signature of present or former pension scheme participant:

Name of partner (if any):



Signature of partner (if any):

Date:

If applicable:

Name former partner entitled to pension sharing in the event of divorce:

Signature former partner entitled to pension sharing in the event of divorce:

Date:

Annex to Model Questionnaire for Value Transfers to a designated institution

The following organisations as referred to in Article 86 of the Pensions Act are designated institutions as listed in Annex 1 of the Pensions Act Regulations (*Regeling Pensioenwet*) and Occupational Pension Scheme (Obligatory Membership) Act (*Wet verplichte beroepspensioenregeling*)¹⁵: (situation on January 8, 2024):

1. The European Centre for Nuclear Research (CERN);
2. The European Centre for Medium-Range Weather Forecasts;
3. The European Molecular Biology Laboratory;
4. The European Organisation for Astronomical Research in the Southern Hemisphere;
5. The European Space Agency;
6. The European Central Bank;
7. The European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT);
8. The European Patent Organisation;
9. EUTELSAT Communications;
10. The European Organisation for the Safety of Air Navigation (Eurocontrol);
11. The Intergovernmental Committee for Migration (ICM);
12. The International Atomic Energy Agency (IAEA);
13. The North Atlantic Treaty Organisation (NATO);
14. The Organisation for Economic Co-operation and Development (OECD);
15. The Council of Europe;
16. The United Nations (UN), including associated specialised organisations;
17. The World Trade Organisation;
18. The West European Union (WEU);
19. The European Police Office (Europol);
20. The European Investment Bank.
21. The European Union Institute for Security Studies
22. The European Union Satellite Centre

¹⁵ <https://wetten.overheid.nl/BWBR0020917/2021-12-29#Bijlage1>

A Dutch pension administrator is understood to be:

- a corporate pension fund;
- an occupational pension fund;
- an industry-sector pension fund;
- a general pension fund
- a premium pension institution or
- an insurer with registered office in the Netherlands.

Model Questionnaire for Value Transfers outside the EEA and Switzerland

Explanatory note

Article 87 of the Pensions Act governs the discretionary power to effect a value transfer to a foreign institution. A foreign institution is understood to be an institution having its registered office outside the Netherlands that is not a pension-paying institution in another Member State or Switzerland, an insurer with registered office outside the Netherlands, one of the European Communities or a designated institution. Article 87 of the Pensions Act applies in those situations where there is no obligation to co-operate pursuant to Articles 85 or 86 of the Pensions Act. More specifically this concerns the discretionary power to effect a value transfer to a pension administrator established outside the EEA or Switzerland.

The Dutch pension administrator must report the value transfer request to De Nederlandsche Bank (DNB), which is the supervisory agency. Of course, this is only necessary if the Dutch pension administrator intends to co-operate with the value transfer. A report to DNB only has any chance of success if it can be demonstrated in advance that there will be no commutation.

The discretionary power to effect a value transfer is subject to certain conditions, and it must be demonstrated “to the satisfaction of DNB” that these conditions have been fulfilled. According to DNB, it is primarily the Dutch pension administrator’s responsibility to assess whether all conditions are met. DNB has a secondary role. The supervisory agency merely conducts a summary verification and issues a declaration that the requirements of the law have been fulfilled “to the satisfaction of DNB”. On its website, DNB has published the downloadable factsheet “Procedure internationale waardeoverdracht artikel 87 PW”.¹⁶

It should be noted that the tax conditions for value transfer to a foreign (non-tax-designated) pension institution are included in the tax Decree of October 9, 2015 (DGB2015/7010M).

Questionnaire

Question : Subject:		Yes	No
1	Is the purpose of the value transfer to enable the person requesting the international value transfer to acquire pension entitlements with your institution as the pension administrator of that person’s employer?	<input type="checkbox"/>	<input type="checkbox"/>
2	Does your pension-paying institution administer the pension scheme of your pension scheme participant’s employer?	<input type="checkbox"/>	<input type="checkbox"/>
3	Is your pension-paying institution the direct recipient of the pension capital’s transfer value from the Dutch pension administrator?	<input type="checkbox"/>	<input type="checkbox"/>

¹⁶ <https://www.dnb.nl/voor-de-sector/open-boek-toezicht-sectoren/pensioenfondsen/prudentieel-toezicht/grensoverschrijdende-uitvoering-van-pensioenen/procedure-internationale-individuele-waardeoverdracht-naar-non-eu-eer-instelling/>

Question : Subject:		Yes	No
4	Is your pension-paying institution subject to government supervision in the country in which it is established?	<input type="checkbox"/>	<input type="checkbox"/>
5	Are the assets of your institution and of the pension scheme participant's employer legally separated? This separation may be effected by your institution being a separate legal entity or having a special preferential arrangement in favour of pension beneficiaries, or by some other means.	<input type="checkbox"/>	<input type="checkbox"/>
6	Can you confirm that the Dutch transfer value of the pension entitlements to be transferred is not eligible for commutation? ¹⁷ If you have answered "no", please indicate which sections of your pension scheme relate to full or partial commutation: _____ _____ _____ _____ _____	<input type="checkbox"/>	<input type="checkbox"/>
7	Can you confirm that the Dutch transfer value will be used solely for retirement or partner pension payments as from the normal pension commencement date under your pension scheme?	<input type="checkbox"/>	<input type="checkbox"/>
8	Can you confirm that your pension scheme complies with the national legislation of your country? A copy of your institution's current pension scheme (preferably digital and in English) should be attached.	<input type="checkbox"/>	<input type="checkbox"/>

¹⁷ With the exception of the option to commute a transfer value of which the entitlements to be acquired are smaller than the commutation limit for small pensions (Article 85, paragraph 1, sub b of the Pensions Act).

Question : Subject: Yes No

9	Can you demonstrate that the pension scheme in the “country of immigration” is in line with normal practice in that country <u>and</u> that the payments to be made from the transferred Dutch pension capital will be subject to a tax levy on income?	<input type="checkbox"/>	<input type="checkbox"/>
	For this purpose you can submit a written declaration by the tax authority of your country of residence/employment. Is this written statement attached?	<input type="checkbox"/>	<input type="checkbox"/>
<p><i>Note:</i> <i>The Dutch Tax and Customs Administration (Belastingdienst) will only consent to an international value transfer if the pension payments to be made in the pension scheme participant’s country of residence are subject to taxation. The pension scheme must also comply with normal practice in the country of residence/employment. In most cases, this will be a pension scheme enjoying favourable tax treatment under the foreign taxation system.</i> <i>If you cannot submit a declaration by the foreign tax authority, then you should clearly demonstrate in some other way that the payments will be subject to taxation in due course, and that the pension scheme is in line with normal practice in that country.</i></p>			

10	Are you, as the foreign pension-paying institution receiving the transfer, prepared to sign an agreement with the Dutch Tax and Customs Administration to cover the eventuality of a Dutch tax claim if the transferred Dutch pension capital is commuted by you (as the institution receiving the transfer), <i>i.e.</i> is not used to generate periodic pension payments as from the normal pension commencement date?	<input type="checkbox"/>	<input type="checkbox"/>
	If not, is the employee prepared to provide adequate security to the Dutch Tax and Customs Administration? ¹⁸	<input type="checkbox"/>	<input type="checkbox"/>
<p><i>Note:</i> <i>The Dutch pension administrator is legally liable for a Dutch tax claim on the pension capital. If pension capital is transferred abroad, the Dutch pension administrator must be relieved of this liability. This liability can be assumed by the foreign pension-paying institution or by the employee concerned. To this end, the foreign pension institution submits a copy of the agreement concluded with the Dutch tax authorities, or the employee submits a statement from the Dutch tax authorities that he has provided sufficient security to the tax authorities.</i> <i>The liability is invoked if a transaction attracting a tax sanction¹⁹ is carried out on the Dutch portion of the pension capital abroad <u>and</u> the employee concerned has not paid the resultant tax assessment.</i></p>			

¹⁸ Those involved can contact the [Foreign Tax Office](#).

¹⁹ In particular if the options for commuting the transferred pension entitlements have been built up at the expense of the Dutch income.

Question : Subject:

Yes No

11	Has the person requesting this international value transfer accepted “substantial” employment? Irrespective of other criteria, employment is “substantial” if it has been contracted for a period of at least 5 years.	<input type="checkbox"/>	<input type="checkbox"/>
	If the employment is “substantial”, evidence of this must be submitted in the form of the employment contract and proof of residence of the person concerned. Are both documents enclosed?	<input type="checkbox"/>	<input type="checkbox"/>

12	Can it be confirmed that the person requesting this international value transfer is <u>not claiming any tax deduction</u> , on account of the value transfer, on any taxable income in the Netherlands of himself or his partner?	<input type="checkbox"/>	<input type="checkbox"/>
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13	<i>This question is only to be answered if a <u>partner’s pension</u> is also entailed.</i>	<input type="checkbox"/>	<input type="checkbox"/>
	Has the partner, i.e. the beneficiary of the partner’s pension, countersigned the international value transfer request? <i>Explanation: If a partner’s pension forms part of the pension value to be transferred, the partner must also concur with the international value transfer request.</i>		

Full name and address of the receiving pension-paying institution:

Signed (pension-paying institution):

Name of signatory:

Telephone number of signatory:

E-mail address of signatory:

Position of signatory:



Date:

Name of present or former pension scheme participant:

Signature of present or former pension scheme participant:

Name of partner (if any):

Signature of partner (if any):

Date:

If applicable:

Name former partner entitled to pension sharing in the event of divorce:

Signature former partner entitled to pension sharing in the event of divorce:

Date:
